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**OFFICE OF PETITIONS**

Banner & Witcoff  
1001 G Street  
Suite 1100  
Washington DC 20001

In re Application of  
Kossida et al.  
Application No. 10/631,958  
Filed: August 1, 2003

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: **DECISION GRANTING PETITION**  
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This decision is in response to Applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705" filed on December 27, 2005 requesting that the Office adjust the PTA determination at the time of the mailing of the Notice of Allowance from 164 days to 305 days.

Applicants' petition to correct PTA is **GRANTED**. The Office will adjust the PTA at the time of the mailing of the notice of allowance to reflect **THREE HUNDRED AND FIVE (305) days**. The Office will provide a copy of the adjusted PTA determination with this decision.

Applicant argues that the Office calculated the 14 month rule under 37 CFR 1.702(a)(2) because the Office improperly used the filing of the application as December 19, 2003 rather than the date of August 1, 2003. Applicants assert that they filed a petition to correct the filing date to the correct date of August 1, 2003. Accordingly, applicant assert that the proper amount of PTA at the time of the mailing of the notice of allowance is three hundred and five days.<sup>1</sup>

Applicant arguments as well as calculations are persuasive. The record reflects that the Office did grant applicants' petition to correct the filing date from December 19, 2003 to August 1, 2003. The Office failed to change the filing date in PALM to August 1, 2003 and accordingly the Office error led the miscalculation of the PTA. The Office was required to file an action under 35 U.S.C. 132 or 151 within 14 months of the date of August 1, 2003 not within fourteen months of December 19, 2003. Accordingly, three hundred and five (305) days is the correct amount of PTA at the time of the mailing of the notice of allowance.

After the mailing of this decision, the Office will forward the application to the Office of Patent Publications for a prompt issuance of the patent. Any delays in issuance of the application will be reflected in the issue notification letter that is mailed to applicant approximately three weeks prior to issuance of the application.

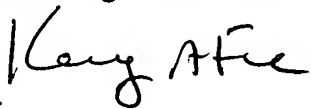
The Office has assessed the \$200.00 fee. No additional fees are required in deciding this petition matter.

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<sup>1</sup>Applicants assert that the three hundred and five days is based upon the beginning date of October 2, 2004 and ending on August 2, 2005.



Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor,  
Office of Patent Legal Administration at 571-272-7757.

A handwritten signature in black ink, appearing to read "Kery Fries". The signature is written in a cursive, flowing style.

Kery Fries  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of Deputy Commissioner  
for Patent Examination Policy

cc: Copy of Adjusted Pair Calculation



Day : Saturday  
Date: 4/1/2006  
Time: 20:12:31

# **PALM INTRANET**

## PTA Calculations for Application: 10/631958

Application Filing Date:	12/19/2003	PTO Delay (PTO):	164
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	305
PTO Delay Adjustment:	141		

## File Contents History

Number	Date	Contents Description	PTO	APPL	START
80	04/01/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	141		
73	09/27/2005	MAIL NOTICE OF ALLOWANCE			
72	09/27/2005	MAIL EXAMINER'S AMENDMENT			
71	09/19/2005	ISSUE REVISION COMPLETED			
70	09/19/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
69	09/19/2005	EXAMINER'S AMENDMENT COMMUNICATION			
68	09/15/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
67	09/19/2005	NOTICE OF ALLOWABILITY			
65	12/19/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
64	08/29/2005	DATE FORWARDED TO EXAMINER			
63	08/12/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
62	08/02/2005	MAIL RESTRICTION REQUIREMENT	164		-1
61	08/01/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
60	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
59	11/08/2004	PETITION DECISION - GRANTED			
58	09/17/2004	PETITION ENTERED			
57	09/17/2004	WORKFLOW INCOMING PETITION IFW			
56	08/17/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
55	08/17/2004	CASE DOCKETED TO EXAMINER IN GAU			
54	03/22/2004	PRELIMINARY AMENDMENT			
53	12/19/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	06/21/2004	APPLICATION RETURN FROM OIPE			
51	06/21/2004	APPLICATION RETURN TO OIPE			



50	06/21/2004	APPLICATION RETURN FROM OIPE			
49	06/21/2004	APPLICATION IS NOW COMPLETE			
48	12/19/2003	DRAWING PRELIMINARY AMENDMENT			
47	06/21/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
46	06/21/2004	APPLICATION RETURN TO OIPE			
45	06/21/2004	APPLICATION RETURN FROM OIPE			
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28	06/16/2004	APPLICATION RETURN TO OIPE			
27	06/16/2004	APPLICATION DISPATCHED FROM OIPE			
26	06/16/2004	APPLICATION IS NOW COMPLETE			
25	03/22/2004	ADDITIONAL APPLICATION FILING FEES			
24	03/22/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
21	02/24/2004	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
20	12/19/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			

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### EXPLANATION OF PTA CALCULATION

### EXPLANATION OF PTE CALCULATION

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